

FILED IN MY OFFICE THIS

CHRIS MENDOZA

JUN 08 2016 2290

J. Cal

CLERK DISTRICT COURT

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

No. CR 2016-00789
DA# 2016-01172-1

STATE OF NEW MEXICO,
Plaintiff,

vs.

DARRIUS DAVON VALLES,
Defendant.

MOTION TO APPOINT NEW COUNSEL FOR WITNESS DEAMBER YONKER

COMES NOW the State of New Mexico, by and through its Assistant District Attorney, Les Romaine, and submits this *Motion to Appoint New Counsel for Witness DeAmber Yonker*, and hereby submits the following:

1. On March 23, 2015, the Defendant and witness, DeAmber Yonker were taken into custody based on a traffic stop in the town of Bernalillo, New Mexico located in Sandoval County. During that traffic stop, the police officers seized numerous items in the vehicle, including over six-thousand dollars (\$6,000) in U.S. Currency. (See Exhibit 1 and 2). During that investigation, Ms. Yonker stated that the money in the vehicle belonged to her.
2. On July 17, 2015, DeAmber Yonker was charged in D-1329-CR-201500364, based on the March 23, 2015 traffic stop. On January 8, 2016, a nolle prosequi was filed by the prosecutor. (See Exhibit 3).
3. On July 17, 2015, the Defendant was charged in D-1329-CR-201500363, based on the March 23, 2015 traffic stop. On September 2, 2015, Ms. Torracco filed a notice of non-representation. (See Exhibit 4).
4. On September 8, 2015, an order of appointment was signed and Roger Bargas was ordered to represent the Defendant in D-1329-CR-201500363. (See Exhibit 5).
5. On April 4, 2016, Ms. Torracco filed a limited entry of appearance in D-1329-CR-

201500363, with the intent to seek the return of forfeited money for attorney's fees to enable further representation. (See Exhibit 6). The same day, a "Motion to Release Seized Currency For 6th Amendment Use To Retain Attorney of Choice" was also filed; Ms. Torraco represented in this motion that the money belonged to Darrius Valles. (See Exhibit 7).

6. On May 20, 2016, in D-1329-CR-201500363, Ms. Torraco filed a motion for judgment on pleadings, requesting that her motion filed April 4, 2016 be granted. (See Exhibit 8).
7. On May 24, 2016, in D-1329-CR-201500363, Ms. Torraco filed an order granting the release of six thousand three hundred ninety six dollars (\$6,396.00) (See Exhibit 9), and she also filed an order granting substitution, naming Ms. Torraco as Darrius Valles's attorney of record. (See Exhibit 10).
8. Rule 16-107(A)(1) states that a concurrent conflict of interest exists if the representation of one client will be directly adverse to another client. Rule 16-107(B)(3) allows for concurrent representation if it does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.
9. Ms. Torraco has stated that the information DeAmber Yonker has is "exculpatory" to the Defendant and subjects her to "criminal liability" and "possible federal prosecution". Based on those assertions, it appears that DeAmber Yonker may be adversely affected by the information, while the Defendant, who she represents in D-1329-CR-201500363, would greatly benefit from the information.
10. Ms. Torraco also currently represents the Defendant in D-1329-CR-201500363, where DeAmber Yonker also faces potential criminal liability due to the investigation conducted by the Bernalillo Police Department on March 23, 2015.
11. It appears that Ms. Torraco has an interest in assisting the Defendant, which can be viewed as adverse to the interests of DeAmber Yonker in both the above captioned matter and in D-1329-CR-201500363, which is pending against the Defendant. Ms. Torraco mentioned that DeAmber Yonker could face criminal

liability but failed to mention that she represents the Defendant in a matter that DeAmber Yonker could also faced criminal liability in.

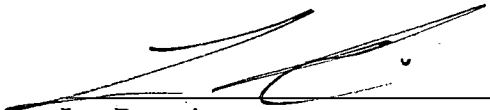
WHEREFORE, the State requests that the Court appoint counsel for DeAmber Yonker to ensure that her adverse interests to the Defendant in these pending matters are protected.

Respectfully submitted,



Les Romaine
Assistant District Attorney

This will certify that on the 8th day of June, 2016, a copy of the foregoing was sent to counsel for defendant, Mark Earnest, and counsel for DeAmber Yonker, Lisa Torracco.



Les Romaine
Assistant District Attorney